

UNITED STATES DISTRICT COURT

FEB 08 2017

for the
Southern District of Texas

David J. Bradley, Clerk of Court

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)A White LG Cellphone Model LGMSJ323 IMEI#
014356-00-181501-6Case No. B-17-233-MJ

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

A White LG Cellphone Model LGMSJ323 IMEI# 014356-00-181501-6

currently located at the United States Border Patrol Brownsville Station, 940 N FM 511, Olmito, TX 78575.

located in the Southern District of Texas, there is now concealed (identify the person or describe the property to be seized):

See Attachments "B"

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
21 U.S.C. § 841 846Offense Description
Conspiracy to Possess and the Possession, with Intent to Deliver a Controlled Substance.

The application is based on these facts:

See attached Affidavit

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Jesus Anaya, Border Patrol Agent-Intelligence

Printed name and title

Sworn to before me and signed in my presence.

Date:

Feb 8, 2017

Judge's signature

City and state: Brownsville, Texas

U.S. Magistrate Judge

Printed name and title

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

In the Matter of the Search of a
White LG Cellphone Model LGMSJ323
IMEI# 014356-00-181501-6

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~~Criminal~~ No. *B-17-233-MJ*

Currently Located at the
United States Border Patrol
Brownsville Border Patrol Station
940 N. FM 511
Olmito, TX 78575

AFFIDAVIT IN SUPPORT OF AN APPLICATION UNDER RULE 41 FOR A
WARRANT TO SEARCH AND SEIZE

I, Jesus Anaya, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application under Fed. R. Crim. P. 41 for a warrant to search a White LG Cellphone Model LGMSJ323 IMEI# 014356-00-181501-6, (hereinafter "Device"), which is currently stored, in law-enforcement possession, at the United States Border Patrol (USBP) Brownsville Border Patrol Station, 940 N. FM 511, Olmito, Texas 78575, for certain things particularly described in Attachment A.

2. In my training and experience, I know that the Device has been stored in a manner in which its contents are, to the extent material to this investigation, in substantially the same state as they were when the Device first came into the possession of agents.

3. I am an Agent with BP assigned to the Rio Grande Valley Sector Intelligence Unit (RGV/SIU) in Brownsville, Texas. I have served as a BP Agent since September of 2007 and have been assigned to the RGV/Intel Collateral Unit for the Brownsville Station. I am a law enforcement officer of the U.S., within the meaning of 18 U.S.C. § 2510(7), who is empowered to conduct investigations of, and to make arrests for, offenses enumerated in 18 U.S.C. § 2516. I am classified, trained, and employed as a federal law enforcement officer with statutory arrest authority charged with conducting criminal investigations of alleged violations of federal criminal statutes.

4. During my career, I have been a part of numerous arrests linked to narcotics smuggling, and the harboring and transporting of undocumented aliens. Through these arrests, along with my training and experience and conversations with other agents and law-enforcement personnel, I have become familiar with the methods used by narcotics and human smugglers to smuggle and safeguard narcotics and undocumented aliens and to thwart or evade investigations of their trafficking organizations. One of the tactics frequently used by these organizations is the consistent use of cellular telephones and cellular telephones equipped with radio transmitters to coordinate the smuggling arrangements of narcotics and undocumented aliens in furtherance into the U.S. I am aware that members of these organizations often store co-conspirators' telephone numbers in the telephone memory and communicate using code names through cellular telephones and their radio transmitters to facilitate transactions and to conceal their identities.

5. This affidavit is being submitted for the limited purpose of establishing probable cause to secure a search warrant for the Device. As such, not all facts known to me or other agents concerning this investigation have been included. This affidavit was approved for filing by an Assistant U.S. Attorney.

PROBABLE CAUSE

o.c.

6. On January 19, 2017, at approximately 4:16 a.m., Border Patrol Agents observed four subjects crossing highway 281, near trestle area in Brownsville, Texas. Upon further observation it appeared that each subject was carrying a bundle. As Agents attempted to interdict the subjects, all four subjects dropped the bundles and started to run back south towards the Rio Grande River in an attempt to abscond into Mexico. Agents were able to secure the bundles, and conduct an immediate search of the area for the subjects. The search for the subjects yielded negative results. All four bundles were secured and transported to the Brownsville Border Patrol station for further examination and processing. Once at the Border Patrol station the cellophane wrapped bundles were opened, and a green leafy substance discovered inside. The green leafy substance was tested using a Duquenois Levine Reagent test kit number 119. A result of the test yielded positive for marijuana. All four bundles were weighed together for a combine weight of 85.09 kilograms. The Drug Enforcement Agency (DEA) was contacted and advised of the bundles. DEA Agents advised they would take

custody of the marijuana. On January 26, 2017, at approximately 4:00 a.m., Border Patrol Agents encountered a white LG Cellphone Model LGMSJ323 IMEI# 014356-00-181501-6. The cellular phone was found in the area where the four bundles were seized and the subject's absconded. It is believed the cellular phone belonged to one of the subjects from the above mentioned seizure, and he dropped it while fleeing.

ELECTRONIC DEVICES AND STORAGE

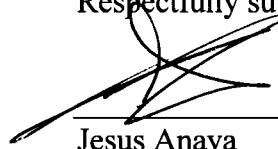
7. As described herein and in Attachment B, this application seeks permission to search and seize things that the device might contain, in whatever form they are stored. Based on my knowledge, training, and experience, I know that electronic devices can store information for long periods of time. Even when a user deletes information from a device, it can sometimes be recovered with forensics tools. Similarly, things that have been viewed via the Internet are typically stored for some period of time on the device. This information can sometimes be recovered with forensics tools.

8. Searching for the evidence described in Attachment B may require a range of data-analysis techniques. In some cases, agents and computer analysts may be able to conduct carefully-targeted searches that can locate evidence without requiring a time-consuming manual search through unrelated materials that may be commingled with criminal evidence. In other cases, however, such techniques may not yield the evidence described in the warrant. Criminals can mislabel or hide information, encode communications to avoid using key words, attempt to delete information to evade detection, or take other steps designed to frustrate law enforcement searches for information. These steps may require agents and law enforcement or other analysts with appropriate expertise to conduct more extensive searches, such as scanning storage areas unrelated to things described in Attachment B, or perusing all stored information briefly to determine whether it falls within the scope of the warrant. In light of these difficulties, USBP Agents intend to use whatever data-analysis techniques appear necessary to locate and retrieve the evidence described in Attachment B.

CONCLUSION

9. I submit that this affidavit supports probable cause for a warrant to search the Device and seize the items described in Attachment B.

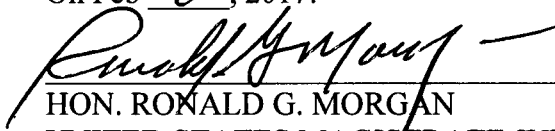
Respectfully submitted,



Jesus Anaya
Border Patrol Agent
United States Border Patrol

Subscribed and sworn to before me

On Feb 8, 2017:



HON. RONALD G. MORGAN
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT B

1. All records and information, contained in a White LG Cellphone Model LGMSJ323 IMEI# 014356-00-181501-6, that involve violations of 21 U.S.C §§ 841 Narcotics Smuggling and 8 U.S.C. §§ 1325 Entry Without Inspection:

- a. any information related to narcotic smuggling and alien smuggling (including saved contacts, phone logs, text messages, voice mails, videos, photos, or any other saved records); and
- b. evidence of user attribution showing who used or owned the Device at the time the things described in this warrant and attachment were created, edited, or deleted, such as logs, phonebooks, saved usernames and passwords, documents, and browsing history.

2. As used above, the terms “records” and “information” include all of the foregoing items of evidence in whatever form and by whatever means they may have been created or stored (including, for example: call logs, contact lists, voicemails, and text messages), including any form of computer or electronic storage (such as flash memory or other media that can store data) and any photographic form.